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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,380	01/27/2006	Luc Thémelin	05133	3132
23338 7590 12/17/2008 DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314				
EXAMINER				
BURCH, MELODY M				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
12/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/551,380

Applicant(s)

THEMELIN ET AL.

Examiner

Melody M. Burch

Art Unit

3657

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
b) ☐ They raise the issue of new matter (see NOTE below);
c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see number 11. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 20.
Claim(s) rejected: 12-19 and 21-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

12/13/08

/Melody M. Burch/
Primary Examiner, Art Unit 3657

Continuation of 11, does NOT place the application in condition for allowance because: With respect to the drawing objection and the 112 second rejection regarding the limitation wherein the "bars are provided with projections in the form of cooling fins", Applicant provides an explanation by citing pg. 12 lines 3-4 of the specification in which it describes "[t]he projection 230 is provided with cooling fins 231." Examiner notes, however, that claim 21 recites "wherein bars are provided with projections in the form of cooling fins" not projections provided with cooling fins as Applicant argues. The bars of the instant invention are provided in the embodiment of figures 4a-4c and are represented by reference number 330 as disclosed in paragraph [0036]. The projections, however, are shown at element 230 in a different embodiment. Finally, as Applicant has pointed out, the cooling fins have been given a separate numeral 231, however, the claim language suggests that the projections and the cooling fins are one in the same by reciting "projections in the form of cooling fins." Since lack of clarity regarding the limitation of the bars provided with projections in the form of cooling fins remains, the drawing objection and 112 second rejections must also remain.

With regards to the art rejections, Applicant argues that Agren does not disclose the presence of grooves that form holes having axes along directions substantially parallel to the planar friction surfaces, the holes being through holes open at ends thereof. Examiner disagrees and notes that the brake pad of Agren comprises a plurality of brake linings 12" connected in overlapping fashion. Each of the brake linings includes a groove shown in the area of elements 30 and 42 that forms a through-hole having an axis substantially parallel to the planar friction surface. Thus, the brake lining as whole comprises grooves that form through-holes having axes along directions substantially parallel to the planar friction surface. With regards to Nakamura, Applicant argues that there is no heat dissipating structure formed at the interface between the friction pad and the backing plate. Examiner disagrees and notes that the leftmost side of fin 150/154 shown in figure 12B is formed at the interface between the friction pad and the backing plate. Applicant also argues that there is no disclosure or suggestion that the means for ventilating the pad directs heat flux to be dissipated in at least one direction substantially parallel to the planar fixing surface. Examiner maintains that by virtue of structures 150,154 being arranged in a direction substantially parallel to the planar fixing surfaces, the structures direct heat flux to be dissipated in at least one direction substantially parallel to the planar fixing surface.

Applicant argues that the lining attached by brazing in Myers is fundamentally different from the type of brake lining disclosed in Agren. Examiner notes, however, that Myers was used solely for the teaching of connecting by brazing. Piecemeal arguments are improper in response to a 103 rejection. Applicant is required to consider the combination of the base reference in view of the teaching reference.

Accordingly, the rejections have been maintained.

Finally, Examiner notes that the amendment to claim 18 raises a new issue that requires further consideration and/or search. The claim was objected to for lack of proper antecedent basis for the term "the housings." Instead of changing the phrase to read "housings" to remove the word "the", Applicant deleted the phrase along with accompanying words. Accordingly, the change requires further consideration and/or search.